

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GREGORY SCOTT VAN HUISEN,

Plaintiff,

v.

CLINTON ADMINISTRATION, et al.,

Defendants.

No. 2:24-cv-0018 TLN KJN P

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner, proceeding pro se and in forma pauperis. On September 25, 2023, plaintiff filed an amended complaint. On January 8, 2024, plaintiff's complaint was dismissed with leave to amend. On January 12, 2024, plaintiff filed an amended complaint. On January 30, 2024, plaintiff filed a second amended complaint. Because plaintiff's first amended complaint was superseded by the filing of his second amended complaint, the undersigned now screens plaintiff's second amended complaint.

As discussed below, it is recommended that plaintiff's second amended complaint be dismissed as legally frivolous and without leave to amend.

Screening Standards

The court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally

1 “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek
 2 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1), (2).

3 A claim is legally frivolous when it lacks an arguable basis either in law or in fact.
 4 Neitzke v. Williams, 490 U.S. 319, 325 (1989); Franklin v. Murphy, 745 F.2d 1221, 1227-28 (9th
 5 Cir. 1984). The court may, therefore, dismiss a claim as frivolous where it is based on an
 6 indisputably meritless legal theory or where the factual contentions are clearly baseless. Neitzke,
 7 490 U.S. at 327. The critical inquiry is whether a constitutional claim, however inartfully
 8 pleaded, has an arguable legal and factual basis. See Jackson v. Arizona, 885 F.2d 639, 640 (9th
 9 Cir. 1989); Franklin, 745 F.2d at 1227.

10 A complaint, or portion thereof, should only be dismissed for failure to state a claim upon
 11 which relief may be granted if it appears beyond doubt that plaintiff can prove no set of facts in
 12 support of the claim or claims that would entitle him to relief. Hishon v. King & Spalding, 467
 13 U.S. 69, 73 (1984) (citing Conley v. Gibson, 355 U.S. 41, 45-46 (1957)); Palmer v. Roosevelt
 14 Lake Log Owners Ass’n, 651 F.2d 1289, 1294 (9th Cir. 1981). In reviewing a complaint under
 15 this standard, the court must accept as true the allegations of the complaint in question, Hosp.
 16 Bldg. Co. v. Rex Hosp. Trustees, 425 U.S. 738, 740 (1976), construe the pleading in the light
 17 most favorable to the plaintiff, and resolve all doubts in the plaintiff’s favor, Jenkins v.
 18 McKeithen, 395 U.S. 411, 421 (1969).

19 Discussion

20 As set forth above, a complaint is legally frivolous within the meaning of 28 U.S.C.
 21 § 1915 “where it lacks an arguable basis either in law or in fact.” Neitzke, 490 U.S. at 325. “The
 22 court may . . . dismiss a claim as frivolous where it is based on an indisputably meritless legal
 23 theory or where the factual contentions are clearly baseless.” Howell v. Johnson, 2021 WL
 24 3602139, at *1 (E.D. Cal. 2021) (citing Neitzke, 490 U.S. at 327). “The critical inquiry is
 25 whether a . . . claim, however inartfully pleaded, has an arguable legal and factual basis.” Id.
 26 (citations omitted).

27 Here, plaintiff’s second amended complaint is based on indisputably meritless legal
 28 theories. Examples of claims based on an indisputably meritless legal theory include claims of

1 infringement of a legal interest which clearly does not exist. Neitzke, 490 U.S. at 327. Plaintiff
2 purports to bring this suit against President Joe Biden and Vice President Kamala Harris, and
3 former presidents Barack Obama, Bill Clinton and the Clinton Administration, and George Bush
4 Jr. and Sr., among others, but there appears to be no plausible connection between plaintiff and
5 such defendants.

6 For example, as to Vice President Harris, plaintiff declares:

7 Protecting an incumbent, diminution, civil conspiracy, illicit
8 cohabitation. An immoral contract on the plaintiff. Pue Autzie Vie.
9 The Hatch Act, Isaiah 59:5. Non possessori incumbit necessitas
10 probandi possessions ad se pertinere, "A person in possession is not
11 bound to prove that possessions belong to him." . . . The plaintiff's
12 life runs on all fours. "Silence is gold but speech is silver." Ancient
13 writings. Ecclesiastes Chapter III. A time to speak and a time to
14 refrain from speaking. The revolution. Possession is 9 tenths of the
15 law. See Van Huisen vs. House of Representatives, 2:23-cv-1869
16 CKD (P). A case of 1st impression. Concise. "It is their right, it is
17 their duty, to throw off such government and provide new guards for
18 their future security. Civil rights, personal trespass.

14 (ECF No. 14 at 35.) As to George Bush, Jr., plaintiff declares:

15 The Hatch Act. . . . Even the corruption of the best is the worst of all.
16 Defendant did to plaintiff, undue influence -- outlawry. They hatch
17 eggs & weave the spiders, those who eat of their eggs die and from
18 that which is crushed a viper breaks out. The Hatch Act, prospering
19 while in insurrection. . . .

18 (ECF No. 14 at 43.) Later, plaintiff raises three claims:

- 19 1. Eighth Amendment violation based on "tyranny, lost leader, color of state law, civil
20 conspiracy, involuntary servitude, Capitol Hill has lost its value. . . ." (ECF No. 14 at 56.)
- 21 2. Thirteenth Amendment violation "despot, posterity, piracy, interpose, bribery and theft
22 by deception," based on the Declaration of Independence, abolishing the free system of English
23 laws. . . . (ECF No. 14 at 57.)
- 24 3. Fourteenth Amendment violation "fore-judger! Reconstruction amendments -- crude
25 oil against thereof," based on Psalms, "the revolution. . . ." (ECF No. 14 at 58.)

26 Plaintiff's factual allegations are incomprehensible and appear to be baseless. Clearly
27 baseless factual allegations include those "that are 'fanciful,' 'fantastic,' and 'delusional.'"
28 Denton v. Hernandez, 504 U.S. 25, 32-33 (1992) (quoting Neitzke, 490 U.S. at 325, 327, 328).

1 Thus, “a finding of factual frivolousness is appropriate when the facts alleged rise to the level of
2 the irrational or the wholly incredible, whether or not there are judicially noticeable facts
3 available to contradict them.” Denton, 304 U.S. at 33. Plaintiff’s factual allegations are
4 incomprehensible. Although plaintiff provides a separate declaration for each of the 27 named
5 defendants, all of the declarations are similarly incomprehensible.


6 Therefore, the undersigned concludes that plaintiff’s second amended complaint is legally
7 frivolous, fails to state any claims that are plausible, and the undersigned recommends that this
8 action be dismissed.

9 Because the second amended complaint is incomprehensible with no basis in fact or law,
10 it is recommended that plaintiff should not be granted leave to amend; leave to amend would be
11 futile. See Lopez v. Smith, 203 F.3d 1122, 1127 n.8 (9th Cir. 2000) (“When a case may be
12 classified as frivolous or malicious, there is, by definition, no merit to the underlying action and
13 so no reason to grant leave to amend.”); accord Badfoot v. Estelle, 874 F.2d 815 and n.1, 4 (9th
14 Cir. 1989) (Unreported, Table) (affirming dismissal of prisoner’s complaint without leave to
15 amend based on finding it incomprehensible).

16 Accordingly, IT IS HEREBY RECOMMENDED that plaintiff’s second amended
17 complaint be dismissed without leave to amend, and this action be terminated.

18 These findings and recommendations are submitted to the United States District Judge
19 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
20 after being served with these findings and recommendations, plaintiff may file written objections
21 with the court and serve a copy on all parties. Such a document should be captioned
22 “Objections to Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that
23 failure to file objections within the specified time may waive the right to appeal the District
24 Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

25 Dated: February 2, 2024

26 
27 KENDALL J. NEWMAN
28 UNITED STATES MAGISTRATE JUDGE

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